

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEBRA SATKOWIAK,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 05-70355
Honorable Patrick J. Duggan

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
Of Michigan, on January 23, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff Debra Satkowiak applied for Social Security Disability Insurance Benefits on May 21, 2002, alleging disability since May 10, 2001, due to physical and mental problems. The Social Security Administration denied Plaintiff benefits. A de novo hearing was held on March 25, 2004, before an Administrative Law Judge (“ALJ”).

Following the hearing, the ALJ determined that Plaintiff was not entitled to disability benefits because, although she could not return to her past job, she could perform a significant number of less demanding jobs identified by a vocational expert. (Tr. at 15-25). The ALJ’s decision became the Commissioner’s final decision when the Appeals Council denied Plaintiff’s request for review. (See Tr. at 5-7).

On February 4, 2005, Plaintiff sought judicial review of the Commissioner's final decision in this Court pursuant to 42 U.S.C. § 405(g). On May 17, 2005, Plaintiff filed her Motion for Summary Judgment and on August 17, 2005, Defendant the Commissioner of Social Security filed its Motion for Summary Judgment. This Court had previously referred all non-dispositive motions and the issuance of a report and recommendation to Magistrate Judge R. Steven Whalen in an Order dated February 4, 2005.

On December 1, 2005, Magistrate Judge Whalen filed his Report and Recommendation (R&R) recommending that this Court deny Plaintiff's Motion for Summary Judgment and grant Defendant's Motion for Summary Judgment. At the conclusion of the R&R, Magistrate Judge Whalen advises the parties that they may object and seek review of the R&R within ten days of service upon them. The R&R also advised the parties that "[f]ailure to file specific objections constitutes a waiver of any further right to appeal," citing *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 46 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).¹ Neither party filed objections to the R&R.

The Court, however, has carefully reviewed the R&R and concurs with Magistrate

¹In *United States v. Walters*, the Sixth Circuit held that a party waives his or her right to appeal by failing to file objections to a magistrate judge's report and recommendation within ten days, provided the magistrate judge notified the parties that failure to file objections constitutes a waiver of appeal. 638 F.2d 957, 949-50 (6th Cir. 1981). The Supreme Court affirmed the Districts' power to impose such an administrative rule in *Thomas v. Arn*, 474 U.S. 140, 105 S. Ct. 466 (1985). See also *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505, 508 (6th Cir. 1991). Magistrate Judge Whalen notified the parties that failure to file objections would constitute a waiver of their right to appeal; nevertheless, Plaintiff failed to file any objections to the R&R. Therefore, Plaintiff has waived her right to appeal.

Judge Whalen's conclusion that Defendant's motion for summary judgment should be granted and that Plaintiff's motion for summary judgment should be denied.

Therefore,

IT IS ORDERED that Defendant's Motion for Summary Judgment is **GRANTED** and Plaintiff's Motion for Summary Judgment is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Donald T. Popielarz, Esq.
Janet Parker, AUSA
Magistrate Judge R. Steven Whalen